IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

NOTICE OF MOTION NO.312 OF 2006
IN
WRIT PETITION NO.111 OF 2002

New Sion Co-op. Housing Society Ltd. ..Petitioner.
Vs.
State of Maharashtra ..Respondent.

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Mr. Jawahar Thakkar for the Petitioner.
Mr. B.G. Ahuja Respondent No.4 present in person.

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CORAM: DR. D.Y. CHANDRACHUD, J.

18th September, 2006.

P.C. :

The Petition was dismissed in default on 5th June, 2006. In the affidavit in support, it has been stated that an oral application was moved on the same day for restoration. However, a formal application in the form of aNotice of Motion has now been moved. There is some merit in the contention urged on behalf of Respondent No.4 that the affidavit in support of the Motion should not have been filed by a junior in the office of the advocate on record. Be that as it may, the objection is now academic having

regard to the fact that the secretary of the Petitioner has himself affirmed an affidavit dated 8th September, 2006 in support of the Notice of Motion. In my view, the absence of the advocate for the Petitioner when the Petition was called out for hearing and final disposal was not deliberate. There is no want of good faith on the part of the Petitioner. In these circumstances, the Motion has to be allowed since sufficient cause has been shown. The Motion is made absolute in terms of prayer clause (a).

The Petition is of the year 2002. The office is directed to place the Petition for hearing and final disposal according to its turn in chronological order.